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HOUSE BILL 411

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A RETIREMENT
PLAN FOR LAW ENFORCEMENT ACADEMY INSTRUCTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

B. "affiliated public employer" means the state and
any public employer affiliated with the association as provided
in the Public Employees Retirement Act, but does not include an

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1 employer pursuant to the Magistrate Retirement Act, the
2 Judicial Retirement Act or the Educational Retirement Act;

3 C. "association" means the public employees
4 retirement association established under the Public Employees
5 Retirement Act;

6 D. "disability retired member" means a retired
7 member who is receiving a pension pursuant to the disability
8 retirement provisions of the Public Employees Retirement Act;

9 E. "disability retirement pension" means the
10 pension paid pursuant to the disability retirement provisions
11 of the Public Employees Retirement Act;

12 F. "educational retirement system" means that
13 retirement system provided for in the Educational Retirement
14 Act;

15 G. "employee" means any employee of an affiliated
16 public employer;

17 H. "federal social security program" means that
18 program or those programs created and administered pursuant to
19 the act of congress approved August 14, 1935, Chapter 531, 49
20 Stat. 620, as that act may be amended;

21 I. "final average salary" means the final average
22 salary calculated in accordance with the provisions of the
23 applicable coverage plan;

24 J. "form of payment" means the applicable form of
25 payment of a pension provided for in Section 10-11-117 NMSA

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1 1978;

2 K. "former member" means a person who was
3 previously employed by an affiliated public employer, who has
4 terminated that employment and who has received a refund of
5 member contributions;

6 L. "fund" means the funds included under the Public
7 Employees Retirement Act;

8 M. "member" means a currently employed,
9 contributing employee of an affiliated public employer, or a
10 person who has been but is not currently employed by an
11 affiliated public employer, who has not retired and who has not
12 received a refund of member contributions; "member" also
13 includes the following:

14 (1) "adult correctional officer member" means
15 a member who is an adult correctional officer or an adult
16 correctional officer specialist employed by a correctional
17 facility of the corrections department or its successor agency;

18 (2) "hazardous duty member" means a member who
19 is a juvenile correctional officer employed by the children,
20 youth and families department or its successor agency;

21 (3) "law enforcement academy instructor
22 member" means a member who is employed full time by an
23 affiliated public employer as a certified instructor at the New
24 Mexico law enforcement academy;

25 [~~3~~] (4) "municipal detention officer member"

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1 means a member who is employed by an affiliated public employer
2 other than the state and who has inmate custodial
3 responsibilities at a facility used for the confinement of
4 persons charged with or convicted of a violation of a law or
5 ordinance;

6 [~~(4)~~] (5) "municipal fire member" means any
7 member who is employed as a full-time nonvolunteer firefighter
8 by an affiliated public employer and who has taken the oath
9 prescribed for firefighters;

10 [~~(5)~~] (6) "municipal police member" means any
11 member who is employed as a police officer by an affiliated
12 public employer, other than the state, and who has taken the
13 oath prescribed for police officers; and

14 [~~(6)~~] (7) "state police member" means any
15 member who is an officer of the New Mexico state police and who
16 has taken the oath prescribed for such officers;

17 N. "membership" means membership in the
18 association;

19 O. "pension" means a series of monthly payments to
20 a retired member or survivor beneficiary as provided in the
21 Public Employees Retirement Act;

22 P. "public employer" means the state, any
23 municipality, city, county, metropolitan arroyo flood control
24 authority, economic development district, regional housing
25 authority, soil and water conservation district, entity created

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1 pursuant to a joint powers agreement, council of government,
2 conservancy district, irrigation district, water and sanitation
3 district, water district and metropolitan water board,
4 including the boards, departments, bureaus and agencies of a
5 public employer, so long as these entities fall within the
6 meaning of governmental plan as that term is used in Section
7 414(d) of the Internal Revenue Code of 1986, as amended;

8 Q. "refund beneficiary" means a person designated
9 by the member, in writing, in the form prescribed by the
10 association, as the person who would be refunded the member's
11 accumulated member contributions payable if the member dies and
12 no survivor pension is payable or who would receive the
13 difference between pension paid and accumulated member
14 contributions if the retired member dies before receiving in
15 pension payments the amount of the accumulated member
16 contributions;

17 R. "retire" means to:

18 (1) terminate employment with all employers
19 covered by any state system or the educational retirement
20 system; and

21 (2) receive a pension from a state system or
22 the educational retirement system;

23 S. "retired member" means a person who has met all
24 requirements for retirement and who is receiving a pension from
25 the fund;

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1 T. "retirement board" means the retirement board
2 provided for in the Public Employees Retirement Act;

3 U. "salary" means the base salary or wages paid a
4 member, including longevity pay, for personal services rendered
5 an affiliated public employer. "Salary" shall not include
6 overtime pay, allowances for housing, clothing, equipment or
7 travel, payments for unused sick leave, unless the unused sick
8 leave payment is made through continuation of the member on the
9 regular payroll for the period represented by that payment, and
10 any other form of remuneration not specifically designated by
11 law as included in salary for Public Employees Retirement Act
12 purposes. Salary in excess of the limitations set forth in
13 Section 401(a) (17) of the Internal Revenue Code of 1986, as
14 amended, shall be disregarded. The limitation on compensation
15 for eligible employees shall not be less than the amount that
16 was allowed to be taken into account under the state retirement
17 system acts in effect on July 1, 1993. For purposes of this
18 subsection, "eligible employee" means an individual who was a
19 member of a state system before the first plan year beginning
20 after December 31, 1995;

21 V. "state system" means the retirement programs
22 provided for in the Public Employees Retirement Act, the
23 Magistrate Retirement Act and the Judicial Retirement Act;

24 W. "state retirement system acts" means
25 collectively the Public Employees Retirement Act, the

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1 Magistrate Retirement Act, the Judicial Retirement Act and the
2 Volunteer Firefighters Retirement Act; and

3 X. "survivor beneficiary" means a person who
4 receives a pension or who has been designated to be paid a
5 pension as a result of the death of a member or retired
6 member."

7 Section 2. A new section of the Public Employees
8 Retirement Act is enacted to read:

9 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
10 COVERAGE PLAN 1--APPLICABILITY.--Law enforcement academy
11 instructor member coverage plan 1 is applicable to law
12 enforcement academy instructor members of an affiliated public
13 employer on the first day of the calendar month following
14 certification of the election adopting law enforcement academy
15 instructor member coverage plan 1 by an affirmative vote of the
16 majority of the affiliated public employer's law enforcement
17 academy instructor members. The election shall be conducted by
18 the affiliated public employer, provided that the election
19 shall not be held until the retirement board has performed an
20 actuarial study and provided notice to the law enforcement
21 academy instructor members what the member and employer
22 contribution rates will be under the plan. The certification
23 shall be in the form prescribed by the retirement board. The
24 election procedures shall afford all law enforcement academy
25 instructor members of the affiliated public employer an

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1 opportunity to vote. An election adopting law enforcement
2 academy instructor member coverage plan 1 for a given
3 affiliated public employer is irrevocable for the purpose of
4 subsequently adopting a coverage plan that would decrease
5 employer or employee contributions with respect to all current
6 and future law enforcement academy instructor members of that
7 affiliated public employer."

8 Section 3. A new section of the Public Employees
9 Retirement Act is enacted to read:

10 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
11 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL
12 RETIREMENT.--Under law enforcement academy instructor member
13 coverage plan 1, the age and service requirements for normal
14 retirement are:

15 A. age sixty-five years or older and five or more
16 years of credited service;

17 B. age sixty-four years and eight or more years of
18 credited service;

19 C. age sixty-three years and eleven or more years
20 of credited service;

21 D. age sixty-two years and fourteen or more years
22 of credited service;

23 E. age sixty-one years and seventeen or more years
24 of credited service; or

25 F. any age and twenty or more years of credited

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1 service."

2 Section 4. A new section of the Public Employees
3 Retirement Act is enacted to read:

4 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
5 COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under
6 law enforcement academy instructor member coverage plan 1, the
7 amount of pension under form of payment A is equal to three and
8 one-half percent of the final average salary multiplied by
9 credited service; provided that the amount shall not exceed
10 eighty percent of the final average salary."

11 Section 5. A new section of the Public Employees
12 Retirement Act is enacted to read:

13 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
14 COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under law enforcement
15 academy instructor member coverage plan 1, the final average
16 salary is one thirty-sixth of the greatest aggregate amount of
17 salary paid a law enforcement academy instructor member for
18 thirty-six consecutive months of credited service. Under law
19 enforcement academy instructor member coverage plan 1, if a
20 member has less than thirty-six months of credited service, the
21 final average salary is the aggregate amount of salary paid a
22 member for the member's period of credited service divided by
23 the member's credited service."

24 Section 6. A new section of the Public Employees
25 Retirement Act is enacted to read:

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1 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
2 COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under law
3 enforcement academy instructor member coverage plan 1 shall
4 make a contribution starting with the first full pay period in
5 the calendar month in which the law enforcement academy
6 instructor member coverage plan 1 becomes applicable to the
7 member. The amount of the contribution shall equal thirty and
8 nine-tenths percent multiplied by the total contribution rate
9 established by the retirement board as actuarially necessary
10 and further multiplied by the member's salary."

11 Section 7. A new section of the Public Employees
12 Retirement Act is enacted to read:

13 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
14 COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION
15 RATE.--The affiliated public employer shall make a contribution
16 for each member who it employs and who is covered under law
17 enforcement academy instructor member coverage plan 1. The
18 amount of the contribution shall equal sixty-nine and one-tenth
19 percent multiplied by the total contribution rate established
20 by the retirement board as actuarially necessary and further
21 multiplied by the member's salary."

22 Section 8. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] LAW ENFORCEMENT ACADEMY INSTRUCTOR MEMBER
25 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED FOR LAW ENFORCEMENT

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1 ACADEMY INSTRUCTOR MEMBERS.--Notwithstanding other provisions
2 of the Public Employees Retirement Act, to qualify for
3 retirement pursuant to law enforcement academy instructor
4 member coverage plan 1, a law enforcement academy instructor
5 member shall have eighteen months of service credit earned
6 under that coverage plan."

7 Section 9. TEMPORARY PROVISION--ACTUARIAL STUDY TO
8 DETERMINE RATES.--No later than December 31, 2007, the public
9 employees retirement board shall conduct a study to determine
10 the total percent of law enforcement academy instructor member
11 salaries that is actuarially necessary to fund law enforcement
12 academy instructor member coverage plan 1. If the plan is
13 adopted by the members in an election held pursuant to Section
14 2 of this act, each member's contribution rate shall equal
15 thirty and nine-tenths percent of the total percent necessary
16 and the employer's contribution rate shall equal sixty-nine and
17 one-tenth percent of the total percent. Prior to the election,
18 the board shall notify the members of the member's contribution
19 rate and the employer's contribution rate.

20 Section 10. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2007.